

REMARKS

Introduction and status of the claims

- This application has been reviewed in light of the Office Action mailed on July 21, 2011.
- Claims 17-30 and 32-35 remain pending in this application.
- Claims 17-19, 21-24, 28-30, and 32-34 have been amended.
- Claims 1-16 and 31 have been canceled without prejudice or disclaimer of subject matter.
- Claims 17-19, 21, 24, and 32-34 are in independent form.

The allowable subject matter

Applicants note with appreciation the indication that claims 13-15, 17-20, and 32-35 would be allowable if rewritten so as not to depend from a rejected claim, and with no change in scope. Since independent claims 17-19 and 32-34 are believed to have been so rewritten, they are now believed to be in condition for allowance, along with their dependent claims.

The rejection under 35 U.S.C. § 112

Claim 18 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 has been carefully reviewed and amended as deemed necessary to ensure that it conforms fully to the requirements of Section 112, second paragraph, with special attention to the points raised on page 2 of the Office Action, with respect to the recitation of "the method"

in the preamble. In particular, this recitation has been deleted, and claim 18 now recites a device.

It is believed that the rejection under Section 112, second paragraph, has been obviated, and its withdrawal is therefore respectfully requested.

The rejections under 35 U.S.C. §§ 102/103

Claims 16, 21-26, and 28-31 were rejected under 35 U.S.C. § 102(b) as being anticipated by WO 02/069791 to Schrepfer.

Claims 1, 2, and 6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Schrepfer in view of U.S. Patent Application Publication No. US 2002/0119759 to Hahn.

Claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Schrepfer in view of Hahn, and further in view of U.S. Patent No. 3,482,167 to Hart.

Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Schrepfer in view of Hahn, and further in view of U.S. Patent No. 3,803,828 to Keeler.

Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Schrepfer in view of Hahn, and further in view of Keeler, and still further in view of U. S. Patent Application Publication No. US 2003/0095420 to Imamura.

Claims 7 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Schrepfer in view of Hahn, and further in view of U.S. Patent Application Publication No. US 2002/0060613 to Pao.

Claims 9-12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Schrepfer in view of U. S. Patent No. 5,212,817 to Atkinson.

First, cancellation of claims 1-16 and 31 renders the rejections of those claims moot.

Second, independent claims 17-19 and 32-34 are believed to be in condition for allowance, along with their dependent claims, for the reasons set out above.

Applicants submit that independent claims 21 and 24, together with the claims dependent therefrom, are patentably distinct from Schrepfer for at least the following reasons.

With regard to claim 21, Applicants note that this claim recites that the outer electrode “comprises two lateral sections extending substantially parallel to and on opposite sides of said strip electrode, wherein a first of said sections is wider than a second of said sections.” The Examiner rejects this claim as being anticipated by Schrepfer and refers to Fig. 3 thereof, and further asserts that Schrepfer discloses an “outer electrode (19), wherein the outer electrode comprises two lateral sections (29).

Applicants, respectfully, do not understand why the Examiner mentions reference number 29 in this context, since reference number 29 designates an electrically insulating cover layer (p. 7, 1. 24), but not an electrode. Further, the Examiner completely fails to even address the feature “wherein a first of said sections is wider than a second of said sections” of the claim. The lateral sections of electrode 19 of Schrepfer have the same widths, as can be seen from Fig. 2.

With regard to claim 24, that claim recites “wherein an outer side of each through-contact is covered by a physiologically inert material.” The Examiner also rejects this claim as being anticipated by Schrepfer and refers to Fig. 3 and p. 7, 11. 27- 31, and asserts that Schrepfer discloses that “an outer side of each through-contact is covered by a physiologically inert material.”

The Examiner seems to be of the opinion that each through-contact 23, 24 of the device is covered by cover layer 29. However, as can be seen from Fig. 2, cover layer 29 only covers

the inner electrode 18, but not the outer electrode 19 and therefore not the through-contacts 23 of the outer electrode. This is emphasized on p. 7, 11. 24 -26: “An electrically insulating cover layer 29 covers all of strip electrode 18 but not ring electrode 19.” Schrepfer teaches that this is important, see p. 7, 1. 34 - p. 8, 1. 1: “...ring electrode 19 comes into contact with the user’s skin and sets the same to ground reference potential.” This effect could not be achieved if ring electrode 19 were covered by insulating cover layer 29. Hence, Schrepfer fails to teach that each through-contact is covered by a physiologically inert material, as in claim 24. Schrepfer even teaches the opposite, namely that ring electrode 19 (and therefore its through-contacts 23) must not be covered by any cover layer.

For at least the foregoing reasons, independent claims 21 and 24 are seen to be clearly allowable over Schrepfer.

The dependent claims

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Respectfully submitted,

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